

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.24143 OF 1995

Between:

Smt.S. Manikyamma

...Petitioner

AND

The Principal, Government Medical College,
Guntur, Guntur District and another

...Respondents

:: ORDER ::

Counsel for the Petitioner : Shri Nuthalapati Krishnamurthy

Counsel for respondent No.2 : Government Pleader for Revenue

Dated: 05-12-2006

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PER G.S.SINGHVI, CJ

This is a petition for quashing order dated 26-4-1995 passed by the Presiding Officer, Labour Court, Guntur (respondent No.2) vide which he rejected the petitioner's claim for award of wages at the rate of Rs.366/- per month at par with three other contingent employees viz. Shri P. Kotilingam, Shri Alla Khan and Shri M. Krishnaiah.

The petitioner was appointed as a contingent worker for Ladies Hostel, Government Medical College, Guntur in 1969. With effect from 1-6-1980, she was transferred to Medical College, Guntur along with three other contingent employees, namely, P. Kotilingam, Alla Khan and M. Krishaniah. After sometime, she filed application Nos.101 of 1980 and 105 of 1982 under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short, 'the 1947 Act') for payment of difference of salary. The Labour Court accepted her claim and directed the Principal, Government Medical College, Guntur (respondent No.1) to pay her the difference of wages. Respondent No.1 challenged that order in Writ Petition Nos.534 of 1983 and 14384 of 1984, which were allowed by the learned Single Judge. On appeal, the High Court remanded the matter to the Labour Court for fresh adjudication. In the second round of adjudication, respondent No.2 partly accepted the claim of the petitioner, but rejected her prayer for issue of a direction to respondent No.1 to pay her wages at par with other contingent employees named hereinabove.

I have heard learned counsel for the parties. Admittedly, the petitioner's claim for payment of wages at par with other contingent employees was founded on her assertion that she is entitled to the benefit of equal pay for equal work. The learned Presiding Officer concluded that such a disputed question cannot be decided under Section 33-C (2). In my view, the learned Presiding Officer did not commit any error, much less a jurisdictional error by declining the petitioner's prayer for issue of a direction to the Principal to pay her wages at par with other contingent employees.

The ambit and scope of Section 33-C (2) of the 1947 Act has been considered in a number of cases and by now it must be treated as settled law that the proceedings contemplated by that section are analogous to executive proceedings and the position of the Labour Court is that of an executing court. While deciding an application filed under Section 33-C(2), the Labour Court can interpret the award etc. on the basis of which the claim of the workman is founded, but cannot determine the substantive right of the workman to receive a particular monetary benefit. Reference in this connection can appropriately be made to the judgments of the Supreme Court in **Central Bank of India v. Rajagopalan** and **The Bombay Gas Co. v. Gopal Bhiva**. In **Municipal Corporation of Delhi v. Ganesh Razak**, it has been unequivocally held that claim based on the principle of equal pay for equal work cannot be decided under Section 33-C (2) of the 1947 Act.

By applying the ratio of the above noted judgments to the facts of this case, I hold that the impugned order does not suffer from any legal infirmity warranting interference under Article 226 of the Constitution of India.

In the result, the writ petition is dismissed leaving the petitioner free to avail appropriate legal remedy for vindication of her claim to be paid wages at the rate of Rs.366/- per month at par with other similarly situated contingent employees.

G.S.SINGHVI, CJ

Date: 05.12.2006

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